

REMARKSI. Introduction

In response to the Office Action dated September 9, 2004, claims 1, 5, 6, 9, 10, 11 and 28 have been amended. Claims 13-27 and 30-49 have been previously cancelled. Claims 1-12, 28-29 and 50-52 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Examiner Interview Summary

Record is made of a telephone interview between Applicants' attorney William Wood, and Examiner Falk on December 3, 2004 in connection with the present patent application. Applicants' attorney thanks Examiner Falk for her helpful suggestions.

III. Drawings

The specification has been amended as discussed in the telephone interview in order to overcome the objections to the drawings.

IV. Non-Art Rejections

On page (2) of the Office Action, claims 1-5 were rejected under 35 U.S.C. §101. In response, claims 1-5 have been amended hereinabove in accordance with the Examiner's suggestion on overcoming this rejection (i.e. to introduce the term "isolated").

The specification's disclosure supports the amendment to claims 1-5 because, for example of its teaching that the subject matter recited therein has undergone isolation processes such as serial transplantation and therefore are not products of nature. Regarding MARY-X, the paragraph bridging pages 12 and 13 teaches that the phenotype of this xenograft has remained stable in over 15 transplant generations. Regarding the in vitro cell line, the paragraph beginning on page 29, line 8 teaches that this in vitro culture is derived from (isolated) MARY-X.

On page (4) of the Office Action, claims 1-12, 28, 29, and 50-52 were rejected under 35 U.S.C. §112, first paragraph. In response, claims 1-12, 28, 29, and 50-52 have been amended

hereinabove in accordance with the Examiner's suggestion on how to overcome this rejection (i.e. to replace the term "host" with "mouse").

On page (8) of the Office Action, claim 9 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 9 has been amended hereinabove to overcome this rejection.

V. Prior Art Rejections

On page (9) of the Office Action, claims 1-12, 28, 29, and 50-52 were rejected under 35 U.S.C. §102(a) as being anticipated by Shao et al., March 1999, FASEB Journal 13 (4 Part 1): pA187 (Shao).

An affidavit is provided (Exhibit A) to overcome this rejection.

VI. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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